



March 19, 2019

Mayor Latoya Cantrell  
City Council  
Zachary Smith, Department of Safety and Permits  
City of New Orleans  
1300 Perdido St  
2nd Floor  
New Orleans, LA 70112

Mayor Cantrell, City Councilmembers and Director Smith:

On behalf of Expedia Group and our vacation rental platforms HomeAway and VRBO, I would like to thank the Department of Safety and Permits (DSP) for their thorough review and analysis of short-term rental platform liability standards in the City of New Orleans. I would also like to thank every member of City Council and their staff for many months—and indeed years—of work on the issue of short-term rentals in the Crescent City.

After reviewing the Department of Safety and Permits' memo regarding City Council resolution No. R-19-7, Expedia Group was encouraged to see recommendations that may position the city for long-term success in enforcing their short-term rental ordinance, and that are in line with what Expedia Group has stated previously.

While we agree with many of the recommendations outlined by Safety and Permits staff, we'd like to highlight concerns we have regarding some of the conclusions made by the report and provide you with an accurate historical reference.

The original short-term rental ordinance that went into effect on April 1, 2017, was tailored to a specific short-term rental platform and their unique business model. That law, understandably, was difficult for a majority of short-term rental platforms in New Orleans to comply with. These concerns were expressed by HomeAway to city staff multiple times during the drafting process of the original law.

Since their founding over twenty years ago, HomeAway, VRBO and VacationRentals.com were operated as advertising platforms that connected short-term rental owners and managers with travelers. The platforms did not have visibility into certain booking and financial information because most transactions took place off the platforms entirely. Because the 2017 law was drafted for transactional marketplaces that had visibility into each transaction, platforms like HomeAway could not immediately come into compliance.

Prior to the effective date of the ordinance, on March 23, 2017, HomeAway met with the DSP staff members responsible for implementation and expressed our willingness to provide what data we could and assist in compliance where possible. At that time, beginning in April 2017,

HomeAway began submitting monthly data reports to the city. City staff stated that they understood that HomeAway could not at the time capture all of the information that the ordinance sought from platforms, and that they were happy to work with us on the data that was available.

HomeAway has continued to submit these data reports for every month since April 2017. In August 2018, HomeAway was made aware by City staff that there was a processing error with several months of reports which caused identical data to be remitted to the City. As soon as HomeAway representatives were notified of this error, we began working to correct the issue. Within seven business days of receiving notification from the city, we provided corrected, retroactive reports for each month impacted. We have since taken every precaution to ensure this or similar errors do not occur in the future.

Since its acquisition by Expedia Group, HomeAway has transitioned its business from solely an advertising platform to a more transactional marketplace. Consistent with this transition, and pursuant to discussions with city staff during the spring of 2017, HomeAway began working on a way to offer more tools to the city to assist with compliance.

In July 2017, the city served dozens of subpoenas on HomeAway seeking private information about its users for particular listings. HomeAway objected due in large part to limitations under federal law, but offered alternative solutions to assist the city with enforcement and expressed a willingness to discuss those alternatives (letter dated August 10, 2017). At that time, city staff stated they were no longer willing to work with HomeAway and ceased all communication.

For over three months in the summer of 2017 we were not able to reach the necessary staff at the Department of Safety and Permits, nor did they respond to repeated emails and phone calls. HomeAway ultimately had to retain representation to restore communication with the City in October 2017. Since that time, we have proactively engaged city staff in discussions to implement a system that would both assist the city with enforcement and compliance and largely negate the need for subpoenas in the future. When the City served HomeAway with a second round of subpoenas in April 2018, HomeAway did not object, and in a letter dated May 16, 2018, again explained our limitations under Federal law and alternative procedures the City can and should undertake in order to receive additional information.

HomeAway staff met with the City Attorney's office, Department of Safety and Permits and Planning Commission to explain in detail our limitations under federal law regarding data sharing. In addition to the above referenced responses, HomeAway explained verbally in April 2018, and in writing via email in June and July of 2018 the legal process the City would need to follow in order to receive the exact data requested from HomeAway. We did not refuse to cooperate and made clear on three separate occasions what legal steps city would need to follow in order for us to be able to provide the information they solicited.

However, in the meantime, HomeAway on a number of occasions offered to provide a permit number field for owners to display their short-term rental license on the website. We went a step further and even offered to address the non-compliant listings that may have already been advertising on our sites against which the city has adjudicated violations. To do this, we required information from the City that was never received. During a call on April 17, 2018, HomeAway requested information on the listings with citations from the city; the city

instead responded with a list of properties that were advertising in the French Quarter (as the memo notes, many properties that are not located in the French Quarter will advertise as such, and there is no prohibition in law against doing so). HomeAway followed up this communication on multiple occasions via email in April 2018 with requests for citation information for the listings so that we could assist the city by removing from our platforms any listings that may have been out of compliance. We have still yet to receive that information from DSP staff.

The memo incorrectly states that no voluntary collection agreement has been set up between the City and HomeAway. Nearly a year ago, in March and April of 2018, HomeAway representatives reached out to the City Attorney's office as well as the Department of Finance to begin work on a voluntary collection agreement. We followed up via email and phone in May, June and July of 2018. We were finally able to deliver a draft agreement to the city on July 30, 2018 with a proposed effective date of October 1, 2018. After nearly six months, the VCA was finally returned to us with edits on January 22, 2019, and the agreement was executed on February 12, 2019, prior to the release of DSP's memo.

The above facts noted, Expedia Group is deeply concerned by the statement in the report that the "platforms failed to act in good faith" and "their actions may legitimately be characterized as deliberate data obfuscation, refusal to provide required data and a total failure of cooperation with any enforcement mechanisms pursued by the City against platform users who violate the law." Expedia Group and HomeAway have made every effort to share all legally releasable data with the DSP. Throughout this process, we've responded quickly and thoroughly, and proactively engaged City staff in matters of tax, regulatory compliance and enforcement.

We remain a willing partner and resource to the city. Should traditional vacation rentals be allowed in New Orleans going forward, Expedia Group is eager to work with the City on the ways in which we may assist with enforcement, including platform compliance tools on our sites to ensure user compliance with City laws.

Thank you for your time and continued work on this important issue. Please do not hesitate to contact me with any questions or concerns, or if I can provide you any additional information.

Respectfully,

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